

1 COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

2
3 Name Palmer Will Moses IIII

4 (Last) (First) (Initial)

5 Prisoner Number H-08789

6 Institutional Address 3000 W. Cecil Ave. P.O Box 5104

7 Delano, Ca. 93216-5104

8
9 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 Will Moses Palmer III

11 (Enter the full name of plaintiff in this action.)

12 vs.

13 E. SANCHEZ

14 G.R. SALAZAR

15
16
17 (Enter the full name of the defendant(s) in this action)

Case No. _____
(To be provided by the clerk of court)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983

Related Case No. C05-358SI

Jury Trial Requested:

18 [All questions on this complaint form must be answered in order for your action to proceed..]

19 I. Exhaustion of Administrative Remedies

20 [Note: You must exhaust your administrative remedies before your claim can go
21 forward. The court will dismiss any unexhausted claims.]

22 A. Place of present confinement KERN VALLEY STATE PRISON

23 B. Is there a grievance procedure in this institution?

24 YES (X) NO ()

25 C. Did you present the facts in your complaint for review through the grievance
26 procedure?

27 YES (X) NO ()

28 D. If your answer is YES, list the appeal number and the date and result of the appeal at

COMPLAINT

SI 555/MCQW
FILED
APR -3 PH12:6
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1440 58

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal NO NUMBER GIVEN, APPEAL REJECTED

2. First formal level SVSP ~~XXXXXXXX~~ 04-04176

SVSP 04-4632, SVSP 05-00588

3. Second formal level SAME AS ABOVE

4. Third formal level SAME AS ABOVE

E. Is the last level to which you appealed the highest level of appeal available to you?

YES (x) NO ()

F. If you did not present your claim for review through the grievance procedure, explain

why. N/A

II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

Will M. Palmer Kern Valley State Prison 3000 W. Cecil Ave.
Delano, Ca. 93216

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

E. Sanchez, Correctional Officer Investigative Employee

Salinas Valley State Prison, 31625 HWY 101 Soledad, Ca 93960

1 G.R Salazar Correctional LT. Disciplinary Hearing Officer, Salinas
 2 Valley State Prison, 31625 HWY 101, Soledad, Ca. 93960

3 Both Sued in their Official and Individual Capacity

4 III. Statement of Claim

5 State here as briefly as possible the facts of your case. Be sure to describe how each
 6 defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any
 7 cases or statutes. If you have more than one claim, each claim should be set forth in a separate
 8 numbered paragraph.

9 DUE PROCESS VIOLATION

10 1. On July 16, 2004, Plaintiff was issued a rule violation report
 11 115, for allegedly assaulting a Peace Officer.

12 2. Defendant E. Sanchez was assigned as the Investigative
 13 Employee in accordance with CDCR's rule and regulations
 14 §3315 and §3318.

15 3. Plaintiff requested to present witnesses and evidence
 16 at the disciplinary hearing.

17 4. Plaintiff provided defendant E. Sanchez with a list of
 18 questions to be posed to specific witnesses, along with
 19 a list naming the specific evidence Plaintiff needed to
 20 present his defense to the charges at the hearing.

21
 22 IV. Relief

23 Your complaint cannot go forward unless you request specific relief. State briefly exactly what
 24 you want the court to do for you. Make no legal arguments; cite no cases or statutes.

25 Compensatory damages in the amount of \$150 for each day
 26 spent confined in conditions posing an atypical hardship

27
 28 RVR expunged from C-file, and points obtained deducted from
classification score, given for the RVR and SHU term.

5. Defendant E. Sanchez accepted Plaintiffs list of questions and evidence that Plaintiff was requesting to be allowed to present at the disciplinary hearing, but did not question any of the witnesses, and failed to collect or attempt to collect any of the Plaintiff had requested to present at the Disciplinary hearing.

6. At the Disciplinary Hearing, Plaintiff informed Defendant G.R. Salazar that defendant E. Sanchez did not obtain the evidence that Plaintiff had specifically requested to be allowed to present as his defense to the allegation against him, to prove the reported incident (i.e head butting a peace officer) never occurred, and that the injuries claimed by the officers did not exist.

7. At the disciplinary hearing, Plaintiff informed defendant G.R. Salazar of the fact that Defendant E. Sanchez did not collect the evidence that Plaintiff had requested as Due Process required.

8. Defendant G.R. Salazar reviewed the I.E. report, and agreed that Defendant E. Sanchez had not conducted his duties as CCR 15, §3315 and §3318 required. For this reason defendant G.R. Salazar postponed the Disciplinary hearing to allow the requested evidence to be collected by the Defendant E. Sanchez.

9. On () defendant G.R. Salazar returned to conduct the RVR 115 Disciplinary hearing. Plaintiff informed Defendant G.R. Salazar that defendant E. Sanchez still had not collected the evidence Plaintiff needed to present his defense, which the Plaintiff had specifically requested.

10. Defendant G.R. Salazar disregarded Plaintiffs Due Process right to have the I.E. prepare the report listing the evidence Plaintiff requested, and Plaintiffs right to have this report 24 hours before the Disciplinary hearing.

11. Defendant G.R. Salazar requested a list of all the witnesses Plaintiff was requesting statements from and the evidence Plaintiff was requesting to be allowed to present at the disciplinary 115 hearing.

12. Plaintiff provided defendant G.R. Salazar with a list of the names of all the witnesses who observed the incident, with the exception of the Court Clerk for Department four of the Monterey County Superior Court, which Plaintiff did not know at the time. Plaintiff also also informed Defendant G.R. Salazar that the entire incident had been reported by the Court reporter, and could serve as evidence proving that Plaintiff was not being disrespectful towards the judge, and also as evidence proving the officers allegations that the Judge had Ordered them to remove me from the courtroom were false. Plaintiff also pointed out that the RVR Incident report, reported that the officers injuries that were calimed had been photographed, and that Plaintiff needed those photographs to prove no such injuries existed.

13. Defendant G.R. Salazar refused to allow plaintiff to present the photographs and reporter transcripts at the Disciplinary hearing.

14. Defendant G.R. Salazar refused to allow Plaintiff to present any of the civilian witnesses statements at the Hearing, and also refused to allow Plaintiff to question Officers Boles and Johnson.

15. Defendant G.R. Salazar conducted the RVR hearing without requiring defendant E. Sanchez to conduct the investigation CCR 15 §3315, and 3318 required.

16. Defendant G.R. Salazar found Plaintiff guilty of the offense of Battery on a peace officer, and recommended that Plaintiff be required to serve an extensive Security Housing Unit term.

17. As a direct result of Defendants acts, violating Plaintiffs civil rights, and state due process rights, Plaintiff was given an 18 month SHU term, and caused to remain in Salinas Valley state prison for 362 days, under conditions that pose an atypical hardship.

18. Plaintiff was not allowed to possess any privileged property, such as radio, T.V. typewriter, ect., Plaintiff was not permitted allowed to possess his medical appliance cane or wheelchair in the confinements of his cell. The cells possessed no desks or lockers, and Plaintiff was often caused to go several weeks without any outdoor exercise/fresh air at all.

19. The conditions Plaintiff was caused to suffer from were found to have to have caused Plaintiff to suffer deterioration of his mental health, causing mental health staff to recommend medical drug treatment.

20. The lack of any desk or locker to write and read on, caused Plaintiff to have to sit on the floor, and write on the bunk, while litigating plaintiffs habeas corpus proceedings, and criminal pre-trial motions. This hunched position caused plaintiff to suffer intensified back pain, causing prison Doctors to issue a medical chrono, directing the Administrative Segregation Officials to provide Plaintiff with a typewriter to prevent further injury.

21. Plaintiff was also caused to be placed in Administrative Segregation for a second time, after being released from SVSP's administrative segregation and transferred to Substance Abuse Treatment Facility State Prison Corcoran, as a direct result of defendant G.R. Salazars decision finding Plaintiff guilty of the July 16, 2004 RVR 115 for battery on a peace officer.

22. Officer Johnson, alleged that Plaintiff had assaulted her, and made the request that Plaintiff not be allowed to remain in General Population at SATF State Prison, after reviewing defendant G.R. Salazars finding of guilt of the incident, Plaintiff was again Placed in Administrative Segregation, on December 7, 2005, and was not released from thos conditions, until May 2, 2006, at which time Plaintiff was transferred to his current place of confinement. Causing Plaintiff to suffer an additional 150 days under conditions posing a severe hardship.

DECLARATION

I, Will Moses Palmer III, declare under the penalty of perjury that the foregoing is true and correct.

executed March 21, 2008

Will M. Palmer III,

I

CAUSE OF ACTION CLAIM

CALIFORNIA CONSTITUTION ART. I. §7(a) DUE PROCESS VIOLATION

Plaintiff refers to and incorporates by reference herein the allegations of paragraphs 1-22, inclusive, as if raised herein.

Defendants Sanchez, and Salazar violated Plaintiffs state Due Process right, and caused Plaintiff to be deprived of liberty, property, and state created privileges, without affording Plaintiff the due procedures state statutes required.

This cause of action is brought under the state Tort law act Gov. Code §§ 810, 844, suing defendants in their individual and official capacities.

II

CAUSE OF ACTION CLAIM

Plaintiff refers to and incorporates by reference herein the allegations of paragraphs 1-22, inclusive as if raised herein.

Defendant Sanchez and Salazar violated Plaintiffs 14th, Amendment right to Due Process, and caused PLAINTIFF TO BE DEPRIVED OF his liberty without due process, and subjected to conditions posing severe hardships, and thereby violated Plaintiffs 8th Amendment right to be free from cruel and unusual punishment. Defendants are sue in their individual and official capacities.

III

REQUEST FOR PENDENT JURISDICTION

DATED: 3/21/2008

FILED

Will

Will Palmer H-08789
KVSP P.O. Box 5104
D-8-120
Orlando, CA 93216

Rem Vallar State Prison
Facility 1, Building 8

NORTHERN DISTRICT OF CALIFORNIA

KVSP LEGAL MAIL

RECEIVED

APR - 1 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Richard W. Wieking

US District Court Clerk T. Sutton
US District Court for the Northern District
450 Golden Gate Ave, Room 19 (Room #10)
San Francisco, CA 94102



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